



1111963
2112
D-1077+6
RECEIVED

RECEIVED

FEB 10 2003

GROUP 3600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:)
 Jay Paul Drummond, et al.)
) Art Unit 2161
Serial No.: **09/193,564**)
)
Filed: **November 17, 1998**) Patent Examiner
) Pierre Eddy Elisca
For: **Automated Banking**)
)
 Machine and System)

Board of Patent Appeals and Interferences
Commissioner for Patents
Washington, D.C. 20231

REPLY BRIEF OF APPELLANTS PURSUANT TO 37 C.F.R. § 1.193(b)

Sir:

The Appellants hereby submit their Reply Brief in triplicate, concerning the above-referenced Application.

EDD JAN 28 PM 3 10
BUREAU OF PATENT APPEALS
19 AND INTERFERENCES

RECEIVED

REMARKS

The Examiner's Answer ("Answer") dated October 29, 2002 is acknowledged. The "Order Returning Undocketed Appeal To Examiner" ("Order") dated September 18, 2002 from the Board of Patent Appeals and Interferences is also acknowledged. If necessary, Appellants request that any continued deficiency in the Answer with regard to the Order be waived to prevent further prosecution delay by the Office.

The Answer only touches on a few of Appellants' many reasons why Anderson does not anticipate the claims. The Answer addresses only issues a, b, c, and d for all of claims 1-4, 7-8, 10-14, and 17-20. As best understood, issues a, b, and c only correspond to steps a, b, and c of claim 1, and issue d only corresponds to the "accessing" step of claim 2. Nevertheless, in replying to the few issues actually addressed in the Answer, Appellants show, as discussed in more detail herein, that Anderson still cannot anticipate claims 1-4, 7-8, 10-14, and 17-20. Nor does the Answer show that claims 5-6, 9, and 15-16 would have been obvious to one having ordinary skill in the art.

The Answer (at part "a.") alleges that Anderson teaches "At least one HTTP record which includes data corresponding to operating data, where the operating data is operative to control operation of an automated transaction machine" at col. 2, lines 21-47. The Answer relies on this cited section of Anderson to indicate Web (HTTP) servers, and then alleges that "HTTP is for viewing a specific web page or to view a specific operating data at an automated transaction machine."

Anderson does not teach an HTTP record associated with data that is operative to control operation of an automated transaction machine (e.g., an ATM). Where does Anderson specifically teach an HTTP record associated with data (e.g., instructions) operative to control operation of a machine, especially an ATM?

Nor does Anderson teach the alleged "viewing." Even if Anderson did teach the alleged "viewing," it is unclear how "viewing a specific web page" relates to an HTTP record associated with "operating data" that is operative to "control operation" of an automated transaction machine. That is, "viewing" a web page is unrelated to controlling operation of an automated transaction machine. It is unclear how one can "view a specific operating data," especially using HTTP, as alleged in the Answer. Furthermore, it is unclear how something that is viewed is operative to control operation of a machine. Anderson does not teach that the financial information includes an HTTP record associated with data (e.g., instructions) operative to control operation of an automated transaction machine.

It is also noted that the Answer relies on Anderson as teaching "banks, stock brokerages, credit card companies and so on" but fails to cite where Anderson teaches these features.

The Answer (at part "b.") alleges that Anderson teaches "Accessing a record data through the server with a computer in an automated transaction machine" at col. 2, lines 20-25, 33-39, and 51-67. The Appellants respectfully disagree. Anderson does not teach that an HTTP record may be accessed through a server with a computer in an automated transaction machine, especially an HTTP record associated with data that is operative to control operation of the automated transaction machine. Again, Anderson cannot anticipate the claims.

The Answer (at part "c.") alleges that Anderson teaches "loading data corresponding to operating data in a memory of the machine" at col. 4, lines 45-67 and Figure 2. The Appellants respectfully disagree. Furthermore, claim 1, at step (c) actually recites "loading data corresponding to the operating data in a memory of the machine." That is, "the operating data" refers back to the operating data that is operative to control operation of the automated transaction machine, and which is associated with an accessed HTTP record. Anderson does not teach loading data into a memory of an automated transaction machine, especially where the data is associated with controlling operation of the machine, and further especially where the data is associated with an accessed HTTP record. Again, Anderson cannot anticipate the claims.

The Answer (at part "d.") alleges that Anderson teaches "Accessing a document with a browser operating in a computer of the automated transaction machine (or financial information)" at col. 2, lines 61-67. The Appellants respectfully disagree. As previously discussed, Anderson does not teach having HTTP records (or HTML documents) associated with data (e.g., instructions) operative to control operation of an automated transaction machine. Nor does Anderson teach accessing an HTML document with a browser, especially where the browser operates in a computer in an automated transaction machine, and further especially where the HTML document is associated with data operative to control operation of the machine.

Furthermore, the Answer (page 4, lines 15-16) relies on the allegation that "on-line financial service information could" be "interpreted as an ATM." The Appellants respectfully disagree with the allegation. Nor is the allegation factually supported in Anderson. Additionally, it is unclear how "information" could be interpreted as a "machine." The Office misinterprets the

claims. Anticipation may not be established based on probabilities or possibilities. It is plainly improper to reject a claim on the basis of 35 U.S.C. § 102 based merely on the possibility that a particular prior art feature could or might be used or operated in the manner recited in the claim. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q. 2d 1949 (Fed. Cir. 1999). It follows that Anderson does not teach a "machine." It further follows that Anderson cannot teach the specifically recited "automated transaction machine." Anderson does not anticipate the claims. Therefore, Appellants respectfully submit that the 35 U.S.C. § 102(e) rejections should be withdrawn.

The Answer, concerning dependent claims 5-6, 9, and 15-16, relies on Zeanah for disclosing "operating data that includes applets or java" at col. 19, lines 26-33; col. 22, lines 26-30; col. 28, lines 41-48, and the Abstract.

The Office admits (e.g., page 3 of the Office Action dated April 20, 2001) that Anderson fails to disclose or suggest operating data that includes applets. Appellants respectfully submit that Zeanah cannot overcome both the admitted and previously discussed deficiencies of Anderson, as it does not disclose or suggest the recited features and relationships which are not found in Anderson. Zeanah does not teach or suggest (e.g., claim 5) a data store which includes a plurality of records with operating data that is operative to control operation of an automated transaction machine, especially where the operating data includes applets.

The Office has not established a *prima facie* showing of obviousness. Appellants have shown that neither Anderson nor Zeanah, taken alone or in combination, teaches or suggests the recited features and relationships. The Answer is devoid of any teaching, suggestion, or motivation for combining features of the references so as to produce the claimed invention. Nor

would it have been obvious to one having ordinary skill in the art to have modified Anderson to have produced Appellants' recited invention. Nor would the alleged modification of Anderson (if somehow even possible) have resulted in the recited features and relationships. Therefore, Appellants respectfully submit that the 35 U.S.C. § 103(a) rejections should be withdrawn.

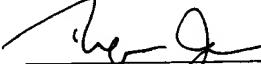
Other Reasons Why Anderson Does Not Anticipate the Claims

Appellants request that their many other reasons (discussed in the Appeal Brief) why Anderson does not anticipate the claims be fully considered by the Board of Patent Appeals and Interferences. For example, Anderson additionally fails to teach operating a transaction function device of an automated transaction machine responsive to operating data loaded in a memory of the machine, especially where a document accessed through an HTTP server includes such operating data (e.g., claim 17). Anderson also fails to teach operating data loaded in memory responsive to instructions in the document (e.g., claim 3). Anderson also fails to teach a computer operative to access a second record and store data in machine memory responsive to a change in condition of a transaction function device (e.g., claim 8). Anderson also fails to teach dispensing cash responsive to an operating data applet (e.g., claim 18). Appellants' Appeal Brief includes additional examples why Anderson does not anticipate the claims.

CONCLUSION

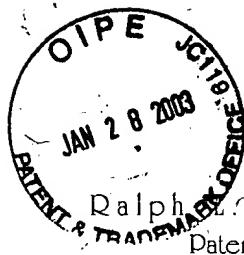
Each of Appellants' pending claims specifically recites features, relationships, and/or steps that are neither disclosed nor suggested in any of the applied art. Furthermore, the applied art is devoid of any teaching, suggestion, or motivation for combining features of the applied art so as to produce the recited invention. For these reasons it is respectfully submitted that all the pending claims are allowable.

Respectfully submitted,



Ralph E. Jockey
WALKER & JOCKE
231 South Broadway
Medina, Ohio 44256
(330) 721-0000

Reg. No. 31,029



Ralph E. Jocke
Patent
&
Trademark Law

Walker
&
Jocke

a legal professional association

AF
3600

January 24, 2003

RECEIVED
FEB 10 2003
GROUP 3600

Board of Patent Appeals and Interferences
Commissioner for Patents
Washington, D.C. 20231

Re: Application Serial No.: 09/193,564
Confirmation No.: 2181
Appellants: Jay Paul Drummond, et al.
Title: Automated Banking Machine and System
Docket No.: D-1077+6

Sir:

Please find enclosed the Reply Brief of Appellants pursuant to 37 C.F.R. § 1.193(b) in triplicate, in response to the Examiner's Answer dated October 29, 2002, for filing in the above-referenced application.

Also enclosed is a Petition for a one month extension of time (\$110). The Commissioner is authorized to charge any necessary fee associated with the filing of the Reply Brief and any other fee due to Deposit Account 09-0428.

Very truly yours,


Ralph E. Jocke
Reg. No. 31,029

RECEIVED
2003 JAN 28 PM 3:09
BOARD OF PATENT APPEALS
AND INTERFERENCES

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that this document and the documents indicated as enclosed herewith are being deposited with the U.S. Postal Service as Express Mail Post Office to addressee in an envelope addressed to Board of Patent Appeals and Interferences, Commissioner for Patents, Washington, D.C. 20231 this 27th day of January 2003.

EV 262324024 US

Express Mail Label No.

330 • 721 • 0000
MEDINA

330 • 225 • 1669
CLEVELAND

330 • 722 • 6446
FACSIMILE

rej@walkerandjocke.com
E-MAIL

231 South Broadway, Medina, Ohio U.S.A. 44256-2601